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1 2 3 4 5 6 7 8	NORTHE	l	ICT COURT CALIFORNIA		
9 10 11 12 13 14	CAROLYN JEWEL, et al., Plaintiffs, v. NATIONAL SECURITY AGENCY Defendants.) No.)) DE) INI) DE) AD) EN , et al.,) OR	08-4373 VRW CLARATION IN SU DIVIDUAL CAPACI' FENDANTS' MOTIO MINISTRATIVE RE LARGE THE TIME OTHERWISE RESI AINTIFFS' COMPLA	FY ON FOR CLIEF TO TO ANSWER POND TO	
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16	I, JAMES R. WHITMAN, hereby declare that:				
17	1. I am a Trial Attorney in the Civil Division of the Department of Justice, and one				
18	of the attorneys assigned to represent all the Government defendants sued in their individual				
19	capacity in this case (George W. Bush, Richard B. Cheney, David S. Addington, Keith B.				
20	Alexander, Michael V. Hayden, John D. McConnell, John D. Negroponte, Michael B. Mukasey,				
21	Alberto R. Gonzales, and John D. Ashcroft). I submit this declaration in support of the				
22	individual capacity defendants' "Motion for Administrative Relief to Enlarge the Time to				
23	Answer or Otherwise Respond to Plaintiffs' Complaint."				
24	2. The individual capacity defendants originally were required to answer or				
25	otherwise respond to plaintiffs' complaint by February 2, 2009, based on the date plaintiffs				
26	effected service on those defendants. On January 30, 2009, the Court granted an unopposed				
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28	Jewel v. NSA, No. 08-4373 VRW, Declarati	on in Support of Individ	lual Capacity Defendants' 1	Motion	

Jewel v. NSA, No. 08-4373 VRW, Declaration in Support of Individual Capacity Defendants' Motion for Administrative Relief to Enlarge the Time to Answer or Otherwise Respond to Plaintiffs' Complaint

motion filed by all defendants (in all capacities) for an extension of time to answer or otherwise respond to plaintiffs' complaint no later than April 3, 2009. See Doc # 17.

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On April 3, 2009, I spoke with counsel for the plaintiffs, Kevin Bankston, to seek 3 3. plaintiffs' agreement to a stipulation regarding the timing for the individual capacity defendants 4 5 to answer or otherwise respond to their complaint. Specifically, I asked Mr. Bankston if 6 plaintiffs would agree to stipulate that the individual capacity defendants would not be required 7 to answer or otherwise respond to plaintiffs' complaint until after the issues identified in the 8 "Government Defendants' Motion to Dismiss and for Summary Judgment" filed by the federal 9 agency and official capacity defendants (collectively referred to as the "United States") on this 10 same date, including a determination that plaintiffs have standing to proceed in this action, have 11 been resolved.

4. I informed Mr. Bankston that the parties had entered into a similar stipulation in
the case of <u>Al-Haramain Islamic Found., Inc. v. Bush</u>, No. 07-109 VRW (N.D. Cal.), which is
also pending before this Court and related to this action.

5. Mr. Bankston has stated that plaintiffs would not agree to the individual capacity defendants' proposed stipulation. Plaintiffs' counsel further indicated that plaintiffs likely would oppose the individual capacity defendants' "Motion for Administrative Relief to Enlarge the Time to Answer or Otherwise Respond to Plaintiffs' Complaint."

As set forth in the accompanying motion, the individual capacity defendants
 request an enlargement so that the issues raised in the "Government Defendants' Motion to
 Dismiss and for Summary Judgment," including that of plaintiffs' standing to bring suit, can first
 be resolved.

Jewel v. NSA, No. 08-4373 VRW, Declaration in Support of Individual Capacity Defendants' Motion for Administrative Relief to Enlarge the Time to Answer or Otherwise Respond to Plaintiffs' Complaint

I declare under penalty of perjury that the foregoing declaration is true and correct.

Executed on April 3, 2009, in the City of Washington, District of Columbia.

	/s/ James R. Whitman JAMES R. WHITMAN (Wis. Bar No. 1036757) Trial Attorney United States Department of Justice Civil Division, Torts Branch P.O. Box 7146, Ben Franklin Station Washington, DC 20044-7146 Tel: (202) 616-4169 Fax: (202) 616-4314 james.whitman@usdoj.gov
	Attorney for George W. Bush, Richard B. Cheney, David S. Addington, Keith B. Alexander, Michael V. Hayden, John D. McConnell, John D. Negroponte, Michael B. Mukasey, Alberto R. Gonzales, and John D. Ashcroft, in their individual capacity
<i>Jewel v. NSA</i> , No. 08-4373 VRW, Declaration in S for Administrative Relief to Enlarge the Time to At	upport of Individual Capacity Defendants' Motion nswer or Otherwise Respond to Plaintiffs' Complaint